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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,410	08/01/2003	Christopher J. Dyl	19815-014001	4381

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EXAMINER
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SALL, EL HADJI MALICK

ART UNIT	PAPER NUMBER
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2457

NOTIFICATION DATE	DELIVERY MODE
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11/18/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/632,410	<b>Applicant(s)</b> DYL, CHRISTOPHER J.	
	<b>Examiner</b> EL HADJI M. SALL	<b>Art Unit</b> 2457	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. This action is responsive to the Appeal Brief filed on May 5, 2008. Claims 1-20 are pending. Examiner admitted that Poulin did not teach explicitly Applicant's claimed invention, and decision was made to reopen prosecution. Claims 1-20 represent efficient method for providing game content to a client.

### **2. *Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1, 8 and 15 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, 8 and 15 recites the limitation "the remaining" in lines 14, 13 and 15, respectively. There is insufficient antecedent basis for this limitation in the claims. Appropriate correction is required.

### **3. *Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2457

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being unpatentable by Hallford et al. U.S. 7,185,352.

Hallford teaches the invention as claimed including method and apparatus for combining broadcast schedules and content on a digital broadcast-enabled client platform (see abstract).

As to claims 1, 8 and 15, Hallford teaches a method for efficiently transmitting to a client a content update and a computer based content updating apparatus, the method comprising the steps of:

a) hosting, for transmission, a content update having a plurality of data files (figure 2a, item 153, Hallford discloses a service provider server storing "content updates having" data files for transmission to the clients);

b) identifying a subset of the plurality of data files as high-quality data files (column 13, lines 12-13, Hallford discloses selecting a subset of the content data files (i.e. “high-quality data files”);

c) creating a high-quality content update that includes the identified high-quality data files (column 13, lines 7-10, Hallford discloses the provider content data files, including content data files with an overall popularity ratings, selected by the service provider).

d) receiving a client connection request (column 4, lines 7-11, Hallford discloses a server and a requesting computer (i.e. client) communicating by way of a communication link);

e) determining that high-quality data files are to be transmitted to the client (column 13, lines 17-20, Hallford discloses determining whether a content data file is desired (i.e. inherently will be “transmitted to the client” if desired by the client) by the client system);

f) transmitting the high quality data files from the high-quality content update (column 13, lines 24-32, Hallford discloses broadcasting data files as it is desired by the client); and

g) transmitting the remaining data files in the content update (column 8, lines 59-61, Hallford discloses broadcasting one or more selected data files to one or more client systems).

As to claims 2 and 9, Hallford teaches the method of claims 1 and 8, wherein step a) comprises storing, on a network storage device, a content update having a plurality of data files (column 7, lines 55-57).

As to claims 3, 10 and 16, Hallford teaches the method and apparatus of claims 1, 8 and 15, wherein step b) comprises using a data quality function to identify a subset of the plurality of data files contained in the content update as high-quality data files (column 8, lines 43-50, Hallford discloses keys that are used to identify desirable content. Examiner construes the key as "a data quality function").

As to claims 4 and 11, Hallford teaches the method of claims 3 and 9, wherein the plurality of data files contained in the content update are sorted by data quality (column 8, lines 59-63, Hallford discloses storing data file based on ranking (i.e. "sorted by data quality") of the data files contained in a content rating table), and wherein a certain fixed percentage of the highest quality data components are separated as high-quality data files (column 9, lines 5-13, Hallford discloses transmitting a composite content meta-data (i.e. "fixed percentage of the heist quality data components...") set in order to receive rankings for the service provider content data files).

As to claims 5 and 12, Hallford teaches the method of claims 3 and 9 wherein the data quality function yields a data quality that is a function of the sizes of the plurality of data files (column 5, lines 7-23, Hallford discloses the content data files being a

Art Unit: 2457

combination of a number of different types (i.e. "sizes") of files including video, audio, graphics, text, multi-media or the like).

As to claims 6, 13 and 17, Hallford teaches the method and the apparatus of claims 1, 8 and 15, further comprising the step of removing the high-quality data files from the content update (column 7, lines 52-55, Hallford discloses broadcasting the content data files to the clients. Inherently when performing the broadcast, the data files is removed from the service provider server).

As to claims 7, 14 and 18, Hallford teaches the method and the apparatus of claims 1, 8 and 15, wherein step e) comprises determining that the received request includes a bit value indicating high-quality files should be transferred (column 13, lines 17-20).

As to claim 19, Hallford teaches the apparatus of claim 15, wherein the non-volatile memory element comprises a network storage device (figure 3).

As to claim 20, Hallford teaches the apparatus of claim 15, wherein the non-volatile memory element is associated with a first computer (figure 3, item 205-211), the processor is associated with a second computer (figure 3, items 203-209), the transceiver is associated with a third computer (figure 3, items 215-217), and the first

Art Unit: 2457

computer, second computer, and third computer are in electrical connection with each other over a network (figure 3).

**5. *Citation of Relevant Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art: US 20050074100 A1.

**6. *Conclusion***

Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention



Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 571-272-4010. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/El Hadji M Sall/

Examiner, Art Unit 2457

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457